

Message Text

PAGE 01 STATE 104346

15

ORIGIN EB-07

INFO OCT-01 IO-13 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10

SIG-01 AID-05 CIAE-00 COME-00 FRB-03 INR-07 NSAE-00

USIA-06 TRSE-00 XMB-02 OPIC-03 SP-02 CIEP-01 LAB-04

SIL-01 OMB-01 NSC-05 SS-15 STR-04 CEA-01 L-03 H-02

JUSE-00 SEC-01 DODE-00 PA-01 PRS-01 OES-06 /139 R

DRAFTED BY EB/IFD/OIA:ECONSTABLE/L/EB:SBOND

APPROVED BY EB/IFD/OIA:ECONSTABLE

L:MFELDMAN

ARA:SROGERS - COMMERCE:SKATZ

TREASURY:EACLAPP

NEA:EABINGTON

IO/CMD:EBRUCE

AF/EP:LWHITE

EUR/RPE:DLAMB

EA/EP:AGEBER

----- 018782

P R 3019-0Z APR 76

FM SECSTATE WASHDC

TO AMEMBASSY KABUL PRIORITY

AMEMBASSY ALGIERS PRIORITY

AMEMBASSY BUENOS AIRES PRIORITY

AMEMBASSY CANBERRA PRIORITY

AMEMBASSY VIENNA PRIORITY

AMEMBASSY DACCA PRIORITY

AMEMBASSY BRUSSELS PRIORITY

AMEMBASSY LA PAZ PRIORITY

AMEMBASSY BRASILIA PRIORITY

AMEMBASSY SOFIA PRIORITY

AMEMBASSY OTTAWA PRIORITY

AMEMBASSY BOGOTA PRIORITY

AMEMBASSY PRAGUE PRIORITY

AMEMBASSY COPENHAGEN PRIORITY

AMEMBASSY QUITO PRIORITY

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 104346

AMEMBASSY CAIRO PRIORITY

AMEMBASSY ADDIS ABABA PRIORITY

AMEMBASSY PARIS PRIORITY

AMEMBASSY LIBREVILLE PRIORITY
AMEMBASSY BONN PRIORITY
AMEMBASSY BERLIN PRIORITY
AMEMBASSY ATHENS PRIORITY
AMEMBASSY TEHRAN PRIORITY
AMEMBASSY ROME PRIORITY
AMEMBASSY ABIDJAN PRIORITY
AMEMBASSY KINGSTON PRIORITY
AMEMBASSY TOKYO PRIORITY
AMEMBASSY AMMAN PRIORITY
AMEMBASSY NAIROBI PRIORITY
AMEMBASSY MONROVIA PRIORITY
AMEMBASSY KUALA LUMPUR PRIORITY
AMEMBASSY MEXICO PRIORITY
AMEMBASSY LAGOS PRIORITY
AMEMBASSY OSLO PRIORITY
AMEMBASSY ISLAMABAD PRIORITY
AMEMBASSY LIMA PRIORITY
AMEMBASSY LISBON PRIORITY
AMEMBASSY BUCHAREST PRIORITY
AMEMBASSY BANGKOK PRIORITY
AMEMBASSY LOME PRIORITY
AMEMBASSY TUNIS PRIORITY
AMEMBASSY MOSCOW PRIORITY
AMEMBASSY LONDON PRIORITY
AMEMBASSY CARACAS PRIORITY
AMEMBASSY SANA PRIORITY
AMEMBASSY BELGRADE PRIORITY
AMEMBASSY KINSHASA PRIORITY
AMEMBASSY LUSAKA PRIORITY
USMISSION USUN NEW YORK PRIORITY
INFO ALL DIPLOMATIC POSTS
XMT AMEMBASSY ACCRA
AMEMBASSY BEIRUT

LIMITED OFFICIAL USE STATE 104346

LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

PAGE 03 STATE 104346

E.O. 11652: N/A

TAGS: PGOV, PFOR, UN, ECOSOC

SUBJECT:U.S. PROPOSAL FOR INTERNATIONAL AGREEMENT ON
ILLICIT PAYMENTS

REF: STATE 54841

1. HOST GOVERNMENTS OF ACTION ADDRESSEES ARE MEMBERS OF
54-COUNTRY UN ECONOMIC AND SOCIAL COUNCIL (ECOSOC). AT
SECOND SESSION OF ECOSOC'S COMMISSION ON TRANSNATIONAL

CORPORATIONS HELD IN LIMA IN MARCH, USDEL, IN CONJUNCTION WITH MAJOR STATEMENT BY DEPARTMENT CONTAINED IN REFTEL, SUBMITTED U.S. PROPOSAL FOR CONVENING OF EXPERT WORKING GROUP TO DRAFT INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS. TNC COMMISSION AGREED TO FORWARD U.S. PROPOSAL TO ECOSOC WITH RECOMMENDATION THAT COUNCIL CONSIDER MATTER OF CORRUPT PRACTICES ON PRIORITY BASIS AND TAKE APPROPRIATE ACTION AT 61ST SESSION, MEETING JULY-AUGUST 1976. GIVEN GREAT IMPORTANCE OF INTERNATIONAL AGREEMENT TO USG AND HEAVY ECOSOC AGENDA FOR 61ST SESSION, IT IS VITAL THAT WE BEGIN NOW TO GATHER SUPPORT FOR U.S. INITIATIVE AT ECOSOC.

2. ACCORDINGLY, ACTION POSTS ARE REQUESTED TO CONTACT GOVERNMENT OFFICIALS, PREFERABLY AT HIGHEST POLICY LEVEL, TO URGE SUPPORT FOR U.S. PROPOSAL AT ECOSOC. WHILE U.S. WILL SEEK SUPPORT FOR PRINCIPLES IN LIMA PROPOSAL, U.S.

HOPES THAT, AT MINIMUM, GOVERNMENTS WILL SUPPORT A RESOLUTION TO SET UP A WORKING GROUP CONSISTING OF HIGH-LEVEL EXPERTS APPOINTED BY STATES, WITH THE MANDATE OF PREPARING A DRAFT INTERNATIONAL AGREEMENT FOR SUBMISSION TO THE 63RD USSION OF ECOSOC IN 1977 (OR SOONER).

3. U.S. WILL SUGGEST AT ECOSOC THAT AN AGREEMENT ON CORRUPT PRACTICES INCLUDE THE PRINCIPLES SET OUT IN REFTEL AND AT LIMA (KEY ELEMENTS OF WHICH ARE SET FORTH BELOW), BUT THAT THE USG DOES NOT WISH TO PREJUDGE EFFORTS OF WORKING GROUP, WHICH SHOULD BE FREE TO EXAMINE ALL ASPECTS OF PROBLEM AND VARIED APPROACHES TO CONTENTS OF INTER-LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

PAGE 04 STATE 104346

NATIONAL AGREEMENT.

4. IN REQUESTING SUPPORT FOR U.S. INITIATIVE AT ECOSOC, POSTS SHOULD DRAW ON FOLLOWING POINTS:

(A) U.S. REGARDS CORRUPT PRACTICES PROBLEM SERIOUSLY AND PLACES HIGH PRIORITY ON MEANINGFUL INTERNATIONAL ACTION TO CURB SUCH PRACTICES.

(B) WE BELIEVE OTHER UN MEMBERS SHARE OUR CONCERN, AS INDICATED BY UNANIMOUS SUPPORT FOR UNGA RESOLUTION 3514 (XXX) CONDEMNING BRIBERY AND CALLING ON HOME AND HOST GOVERNMENTS TO COOPERATE TO ELIMINATE CORRUPT PRACTICES.

(C) THE U.S. HAS TAKEN IMPORTANT STEPS UNILATERALLY IN AN EFFORT TO RESOLVE THE PROBLEM OF ILLICIT PAYMENTS (E.G. SEC AND IRS DISCLOSURE REQUESTS AND NEW LEGISLATION ON MILITARY SALES). HOWEVER, GIVEN THE INTERNATIONAL NATURE

OF THE PROBLEM, THE MOST EFFECTIVE APPROACH IS ONE BASED

ON COOPERATIVE INTERNATIONAL ACTION BY GOVERNMENTS
THROUGH AN INTERNATIONAL AGREEMENT AS PROPOSED BY THE
U.S.

5. POSTS SHOULD MAKE CLEAR THAT USG VIEWS THIS AS MATTER
OF GREAT IMPORTANCE AND URGE THAT OUR REQUEST FOR SUPPORT
FOR AN INTER-GOVERNMENTAL WORKING GROUP TO BE ESTABLISHED
BY ECOSOC BE CONSIDERED IN THIS LIGHT.

6. FOLLOWING IS TEXT OF U.S. PROPOSAL FORWARDED TO
ECOSOC BY UN COMMISSION ON TRANSNATIONAL CORPORATIONS:

BEGIN TEXT:

PARA 1. RESOLUTION 3514 (XXX), APPROVED UNANIMOUSLY BY
THE GENERAL ASSEMBLY, CONDEMNS ALL CORRUPT PRACTICES,

INCLUDING BRIBERY, BY TRANSNATIONAL AND OTHER CORPORATIONS,
THEIR INTERMEDIARIES AND OTHERS INVOLVED IN VIOLATION OF
THE LAWS AND REGULATIONS OF THE HOST COUNTRIES. THE RESO-
LUTION CALLS UPON GOVERNMENTS TO TAKE NECESSARY AND APPRO-
LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

PAGE 05 STATE 104346

PRIATE MEASURES WITHIN THEIR RESPECTIVE NATIONAL JURISDIC-
TIONS AND TO CO-OPERATE TO PREVENT SUCH CORRUPT PRACTICES.
FINALLY, THE RESOLUTION REQUESTS THE ECONOMIC AND SOCIAL
COUNCIL TO DIRECT THE COMMISSION ON TRANSNATIONAL
CORPORATIONS TO INCLUDE IN ITS PROGRAMME OF WORK THE
QUESTION OF CORRUPT PRACTICES OF TRANSNATIONAL CORPORA-
TIONS AND TO MAKE RECOMMENDATIONS ON WAYS AND MEANS
WHEREBY SUCH CORRUPT PRACTICES CAN BE EFFECTIVELY
PREVENTED.

PARA 2. THE PROBLEM OF CORRUPT PRACTICES IS BOTH A TRADE
AND INVESTMENT PROBLEM AND, IN FACT, EXTENDS BEYOND THE
ACTIVITIES OF TRANSNATIONAL ENTERPRISES. IT IS PRIMARILY
THE RESPONSIBILITY OF EACH STATE TO SET FORTH CLEAR RULES
RELEVANT TO SUCH ACTIVITIES WITHIN THEIR TERRITORIES - TO
ESTABLISH AND ENFORCE LEGISLATION DEALING WITH THE PROBLEM,
INCLUDING CLEAR RULES AS TO THE USE OF AGENTS IN TRANS-
ACTIONS WITH THE GOVERNMENT. HOWEVER, THE DIMENSIONS
OF THE PROBLEM ARE SUCH THAT UNILATERAL ACTION NEEDS TO
BE SUPPLEMENTED BY MULTILATERAL CO-OPERATION.
CO-ORDINATED ACTION BY EXPORTING AND IMPORTING, HOST AND
HOME COUNTRIES IS THE ONLY EFFECTIVE WAY TO PREVENT
IMPROPER ACTIVITIES OF THIS KIND. THE MOST EFFECTIVE
METHOD OF ACHIEVING SUCH INTERNATIONAL CO-OPERATION IS
THROUGH AN INTERNATIONAL AGREEMENT DEALING WITH CORRUPT
PRACTICES.

PARA. 3. AN INTERNATIONAL AGREEMENT DEALING WITH CORRUPT

PRACTICES SHOULD BE BASED ON THE FOLLOWING PRINCIPLES:

(A) IT WOULD APPLY TO INTERNATIONAL TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS, I.E., GOVERNMENT PROCUREMENT AND OTHER GOVERNMENTAL ACTIONS AFFECTING INTERNATIONAL TRADE AND INVESTMENT AS MAY BE AGREED;

(B) IT WOULD APPLY EQUALLY TO THOSE WHO OFFER OR MAKE IMPROPER PAYMENTS AND TO THOSE WHO REQUEST OR ACCEPT THEM;

(C) IMPORTING GOVERNMENTS WOULD AGREE TO (I) ESTABLISH

CLEAR GUIDELINES CONCERNING THE USE OF AGENTS IN CONNECTION WITH LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

PAGE 06 STATE 104346

WITH GOVERNMENT PROCUREMENT AND OTHER COVERED TRANSACTIONS AND (II) ESTABLISH APPROPRIATE CRIMINAL PENALTIES FOR DEFINED CORRUPT PRACTICES BY ENTERPRISES AND OFFICIALS IN THEIR TERRITORY;

(D) ALL GOVERNMENTS WOULD CO-OPERATE AND EXCHANGE INFORMATION TO HELP ERADICATE CORRUPT PRACTICES;

(E) UNIFORM PROVISIONS WOULD BE AGREED FOR DISCLOSURE BY ENTERPRISES, AGENTS AND OFFICIALS OF POLITICAL CONTRIBUTIONS, GIFTS AND PAYMENTS MADE IN CONNECTION WITH COVERED TRANSACTIONS.

PARA 4. THE COMMISSION BELIEVES THAT URGENT AND SERIOUS CONSIDERATION SHOULD BE GIVEN TO THE PREPARATION OF AN INTERNATIONAL AGREEMENT WHICH WOULD ESTABLISH CERTAIN STANDARDS AND PROCEDURES RELATIVE TO INTERNATIONAL TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS WITH THE AIM OF ELIMINATING CORRUPT PRACTICES IN THESE AREAS. ACCORDINGLY, THE COMMISSION REQUESTS THAT THE ECONOMIC AND SOCIAL COUNCIL AT ITS SIXTY-FIRST SESSION GIVE PRIORITY CONSIDERATION TO THIS QUESTION AND ESTABLISH A GROUP TO WHICH STATES SHALL APPOINT A HIGH LEVEL EXPERT, TAKING INTO ACCOUNT HIS KNOWLEDGE OF THE ISSUES INVOLVED, TO STUDY AND PREPARE, BASED ON THE PRINCIPLES SET FORTH IN PARAGRAPH 3 HEREOF, RECOMMENDATIONS FOR SUCH AN AGREEMENT. THE REPORT OF THE GROUP WOULD BE SUBMITTED TO THE ECONOMIC AND SOCIAL COUNCIL AT ITS SIXTY-THIRD SESSION. THE CENTER ON TRANSNATIONAL CORPORATIONS, ALONG WITH SUCH ORGANS OF THE UNITED NATIONS AS THE ECONOMIC AND SOCIAL COUNCIL DEEMS APPROPRIATE, WOULD GIVE FULL SUPPORT AND ASSISTANCE TO THE EXPERT GROUP IN ITS WORK.
END TEXT.

7. THE FOLLOWING ECOSOC MEMBERS CO-SPONSORED UN RESOLUTION 3514 (XXX) AND PRESUMABLY WOULD BE WILLING TO SUPPORT

FURTHER UN ACTION: ALGERIA, ARGENTINA, BOLIVIA, COLOMBIA, ECUADOR, EGYPT, GABON, IRAN, NIGERIA, PAKISTAN, PERU, ROMANIA, VENEZUELA AND YUGOSLAVIA.

8. IN MAKING APPROACHES TO HOST GOVERNMENTS (ESPECIALLY LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

PAGE 07 STATE 104346

THOSE LOCATED IN STATES LISTED IN PARA. 7 ABOVE), ACTION POSTS SHOULD SEEK SUPPORT FOR U.S. PROPOSAL BUT ALSO, IF SUFFICIENT INTEREST IS SHOWN AND IT IS JUDGED APPROPRIATE, INQUIRIES MAY BE MADE AS TO WHETHER HOST GOVERNMENT WOULD CONSIDER EVENTUALLY BECOMING CO-SPONSOR OF ECOSOC RESOLUTION TO SET UP WORKING GROUP.

9. ACTION POSTS ARE REQUESTED TO REPORT HOST GOVERNMENT RESPONSE AT EARLIEST POSSIBLE DATE, PREFERABLY NOT LATER THAN MAY 15.

10. FOR USUN: MISSION REQUESTED TO MAKE ABOVE POINTS TO OTHER DELEGATIONS AS APPROPRIATE.

11. FOR TOKYO: POST SHOULD THANK TOKYO FOR SUPPORT ON U.S. INITIATIVE ALREADY GIVEN DURING CONSULTATIONS IN WASHINGTON DURING LIMA MEETING AND EXPRESS HOPE THAT GOJ COULD ACT AS CO-SPONSOR OF RESOLUTION IN ECOSOC.

12. FO
OTTAWA, LONDON: POSTS CAN EXPRESS APPRECIATION FOR EARLY INFORMAL INDICATION OF INTEREST AND ALSO EXPLORE CO-SPONSORSHIP POSSIBILITIES.

13. FOR BONN: POST MAY INDICATE AWARENESS THAT FRG IS NOT ENTHUSIASTIC OVER SPECIFIC ASPECTS OF U.S. PROPOSAL BUT SHOULD EMPHASIZE U.S. BELIEF THAT INTERNATIONAL ACTION ON ISSUE IS INEVITABLE AND THAT IT IS PREFERABLE FOR DEVELOPED STATES TO MAKE EARLY EFFORT TO SHAPE SUCH ACTION. POST SHOULD EXPRESS HOPE THAT FRG COULD AT LEAST SUPPORT FORMATION OF WORKING GROUP AS PROPOSED BY U.S.

14. FOR VIENNA AND PARIS: PLEASE BRING THIS MESSAGE TO THE ATTENTION OF ASSISTANT SECRETARY LEWIS. SISCO

LIMITED OFFICIAL USE

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 15 SEP 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, AGREEMENT DRAFT, INTERNATIONAL LAW, BRIBERY
Control Number: n/a
Copy: SINGLE
Draft Date: 30 APR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE104346
Document Source: ADS
Document Unique ID: 00
Drafter: EB/IFD/OIA:ECONSTABLE/L/EB:SBOND
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: D760168-1074
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197604115/baaaeotz.tel
Line Count: 318
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 31 MAR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <31 MAR 2004 by ShawDG>; APPROVED <31 MAR 2004 by morefirh>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PROPOSAL FOR INTERNATIONAL AGREEMENT ON
TAGS: PGOV, PFOR, US, UN, ECOSOC
To: KABUL
ALGIERS
BUENOS AIRES
CANBERRA
VIENNA
DACCA

BRUSSELS

LA PAZ

BRASILIA

SOFIA

OTTAWA

BOGOTA

PRAGUE

COPENHAGEN

QUITO

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

Type: TE

Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006